



Re: 

John Lovell to: jackie.hendricks

02/07/2011 03:34 PM

I realized that I had never looked at the revised permit form that you had sent with this message. Sorry about the oversight. I think you generally addressed most of the comments that I had made at the time of the audit. I do still have a few comments on pages 5, 9, and 13 of the attached copy (changes shown in yellow highlight and with track changes). As noted in your e-mail, this was only the standard conditions part of the permit and so it doesn't show how you addressed the changes to pages 1, 2, and 4 from my original permit review or the changes to the self-monitoring form. In addition, I didn't find anything that addressed the two recommendations that I made under the "missing provisions" section of the permit form review. These dealt with including the general and specific prohibitions in the permit and the prohibition on dilution.

Let me know if you have any questions.



Reading Revised Permit With Comments.doc

John Lovell
Pretreatment Coordinator
EPA Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
215-814-5790
215-814-2318 (fax - NEW)

Dear John

04/23/2010 04:21:57 PM

From: <jackie.hendricks@readingpa.org>
To: John Lovell/R3/USEPA/US@EPA
Date: 04/23/2010 04:21 PM
Subject:

Dear John

I am enclosing a copy of the changes I made to the permit as per your June 28, 2006 letter addressing the last EPA audit of the City's Pretreatment Program.

The changed areas are in blue. The green highlights are for my use and indicate areas that are IU specific and have to be changed from permit to permit.

There are other changes in the beginning pages of the permit as well as in the Industrial User Self Monitoring Report Form. These changes are mostly industrial user specific. I will send you a full permit later so you will be able to see the other changes.

The changes I am sending you today are applicable to all permits. The only section that will vary will be on page 5, Section D – Other Permit Conditions. I use this section for additional requirements that are industrial user specific.

For the Annual Report we recently submitted – we always included the Proof of Publication statement from the Reading Eagle. It was not included this year. It arrived after we sent the Annual Report. This is because our ad had to be reprinted on the Sunday following our original submission. The newspaper omitted the name of one of the IUs. They reprinted our full ad free of charge and this delayed the invoice and Proof of Publication statement. Do you want us to send this statement to you to add to the Annual Report?

[attachment "A new permit format with mark ups.doc" deleted by John Lovell/R3/USEPA/US]

Beck's Packing Company Inc.
PERMIT NO. 30

B. All samples shall be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR, Part 136 and amendments.

C. Results shall be reported using the attached self-monitoring report forms. See Section IV for requirements.

D. Other Permit Conditions

The permittee shall notify the City immediately of any changes in the facility, or other conditions that may affect the discharge. A discharge is any discharge of a substance, including but not limited to an accidental spill or a non-scheduled batch discharge, which has a reasonable potential to cause an adverse effect on the health, safety, or environment of the community, or to cause any other way violate the 40 CFR (publicly owned treatment works) regulations, local limits or periodic conditions.

The permittee shall maintain ~~or~~ and provide documentation demonstrating compliance with the best management practices listed below.

1. A spill prevention and control plan, developed by the City of Chicago, shall be submitted to the City for approval and implemented by the permittee. A plan is defined as a written document that describes the procedures to be followed in the event of a spill. The plan shall be submitted to the City for approval. The permittee is required to maintain and implement this plan as the facility.

Comment [MSOffice1]: Using "or" would mean that the user can send it to you without maintaining it in their files.

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PART III - OPERATION & MAINTENANCE OF POLLUTION CONTROLS

A. Pretreatment Facilities and Control Structure Provisions

Where deemed necessary to comply with applicable regulations and the terms of this permit, the Permittee shall provide suitable pretreatment facilities. They shall be planned, designed, constructed, owned, operated, and maintained by the Permittee at his expense and shall be located for ease of inspection and cleaning.

A summary of the pretreatment system currently provided by Permittee follows:

Becker, (under contract)
will provide:

It is Permittee's responsibility to effectively manage these facilities. Failure to do so constitutes a violation of City's regulations and is subject to enforcement as cited therein.

The Permittee shall also provide a suitable control structure for the inspection, observation, sampling, and flow measurement of the Permittee's industrial contribution. The control structure shall be safe, accessible at all times, secure from unauthorized tampering, and continuously operated and maintained at the Permittee's expense. In addition to being compatible with all of the Permittee's monitoring requirements, the control structure shall be of suitable capabilities so as to accommodate the installation of the City's monitoring equipment.

B. Duty to Halt or Reduce Activity

Upon reduction, loss or failure of the treatment facility, the Permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced.

C. Bypass of Treatment Facilities

- (1) Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage and no feasible alternatives exist and the reporting and notification requirements of Section C(1) below have been met.
- (2) Bypass not exceeding limitations. The Permittee may allow any bypass to occur which does not cause pretreatment standards or equipment to be violated, but only if it also is for essential maintenance to assure efficient operation. This type of by-passing is not subject to the reporting and notification requirements of Section C(3) below.
- (3) Notification of bypass:
 - (a) Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior written notice to the City at least ten (10) days before the date of the bypass.
 - (b) Unanticipated bypass. The Permittee shall within 24 hours of becoming aware of any unanticipated bypass that exceeds pretreatment standards notify the City and submit a written notice to the City within 5 days. This report shall specify:
 - (i) A description of the bypass, and its cause, including its duration and exact dates and time;
 - (ii) Whether the bypass has been corrected; and anticipated time it is expected to continue (if on-going);
 - (iii) The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

PART IV - REPORTING REQUIREMENTS

A. Monitoring results obtained shall be summarized and reported on an Industrial User Monitoring Form on a quarterly basis: by April 30th (for the January through March monitoring period); by July 31st (for the April through June monitoring period); October 31st (for the July through September monitoring period); and by January 31st (for the October through December monitoring period). Contents of the report are defined under Part II, Section A of this permit.

(1) Where the Permittee contracts sample analyses (in satisfaction of monitoring requirements), a copy of the laboratory report showing results, methods used, and signature(s) shall be included with the self-monitoring report. It is the Permittee's responsibility to ensure contract laboratory compliance with Part II, Section B of this permit.

(2) Where the Permittee performs sample analyses in satisfaction of monitoring requirements, the Permittee shall ensure compliance with Part II, Section B of this permit.

B. If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of such monitoring shall be included in the calculation and results shall be reported in the report and submitted to the City.

C. Data Recording Requirements

For each sample or measurement taken pursuant to the requirements of this permit, the Permittee shall record the following information: The exact place, date, and time of sampling or measurement; the sample method (e.g. grab or composite); [REDACTED]; the person(s) who performed the sampling or measurement; the dates and times the analyses were performed; the name(s) of the analyst; the analytical techniques or methods used; and the results of all required analyses.

D. Automatic Resampling/Non-Compliance Notification

If sampling performed by the Permittee indicates a violation, the user shall notify the City within 24 hours of becoming aware of the violation. The Permittee shall also repeat the sampling and analysis [REDACTED] and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation. The Permittee is not required to resample if:

(1) The Permittee performs sampling at a frequency of at least once per month for the parameter in violation and submits the results to the City within 30 days of the violation detection, or

(2) The City performs sampling at the Permittee between the time when the Permittee performs its initial sampling and the time when the Permittee receives the results of this sampling, or

(3) The City performs sampling at the Permittee at a frequency of at least once per month.

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E. Adverse Impact/Slug Loading Notification - Accidental Discharge Report

The Permittee shall take all reasonable steps to minimize any adverse impact to the publicly owned treatment works resulting from any discharge to the system, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

The Permittee shall immediately notify the City in writing of any discharge, accidental or otherwise, which could cause problems to the public treatment works. The telephone number to report any accidental spills or discharges is 610-655-6131 between 7:00AM to 4:00PM. The after hours phone number for reporting spills is 610-655-6300.

Comment [MSOffice2]: What you have is probably OK, but the ordinance defines publicly owned treatment works rather than public treatment works so I think it's safer to use the term that is defined in the ordinance. I'd also suggest that you search the document for this term and change it everywhere that it's used.

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Telephone notification shall include the location of discharge, date and time of discharge, type of waste, concentration and volume, and corrective action taken.

The Permittee shall notify all employees of the emergency notification procedure and shall ensure implementation of its spill prevention and control plan.

Within five (5) days of notification of a slug discharge, spill, accidental discharge, or discharge that could cause problems to the public treatment works, provide the City in writing with the following information:

(1) Description and cause of the spill, slug, or other accidental discharge or discharge that could cause problems to the public treatment works and the impact on the Permittee's compliance status. The description should also include location of discharge, type of waste, concentration and volume of waste.

(2) Duration of the spill, slug, or other accidental discharge or discharge that could cause problems to the public treatment works including start and times of discharge, and if the incident is continuing, the time by which the incident is expected to cease.

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Comment [MSOffice3]: Hopefully any incidents will be short, but you should cover yourself just in case it is a long term incident. You had similar language in the old permits, although I think use of the term "compliance" could have been problematic.

1. What is the purpose of the study?

therewith.

al/Yrtement attributable to the Permittee.

of the discharge.

and the discharge of any previously unreported pollutants.

G. Signatory Requirements

shall be signed and certified:

(a) The authors declare that they have no competing financial interests. The authors have nothing to disclose.

[illegible]

Boeki Packing Company Inc.
PERMIT NO. 30

(b) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively;

(c) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or by a duly authorized representative of the partnership or sole proprietorship, as the case may be, who is authorized in writing by the partnership or sole proprietorship to execute the permit and to represent the partnership or sole proprietorship in all matters relating to the activities of the government facility.

(2) All applications, correspondence, reports, and self-monitoring reports may be signed by a duly authorized representative of the person described above. A person is a duly authorized representative only if:

(a) The authorization is made in writing to the City by a person described above;

(b) The authorization is made in writing to the City by a person described above, who is a duly authorized representative of the person described above, and who is authorized in writing by the person described above to execute the permit and to represent the person described above in all matters relating to the activities of the government facility.

(3) Certification. All applications and reports shall contain the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

H. Provisions Governing Fraud and False Statements

The reports and other documents required to be submitted or maintained under this section shall be subject to:

(1) The provisions of 18 USC Section 1001 relating to fraud and false statements;

(2) The provisions of Section 309(c) (4) of the Clean Water Act, as amended, governing false statements, representation or certification; and

(3) The provisions of Section 309(c) (6) of the Clean Water Act regarding responsible corporate officers.

I. Notification of Discharge of Listed or Characteristic Wastes

In accordance with 40 CFR 403.12(p), the Permittee shall notify the City, the U.S. Environmental Protection Agency (EPA) Region III, Director of Waste Management Division and the Pennsylvania Department of Environmental Protection (DEP), in writing of any discharge into the wastewater treatment plant, of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. (See Attachment A for sample notification form. This form shall be updated by the Permittee at least annually by January 30th if hazardous waste is discharged.)

J. All reports required by this permit shall be submitted to the City at the following address:

City of Reading
Wastewater Treatment Plant-Pretreatment
815 Washington Street
Reading, PA 19601-3690

PART V - GENERAL CONDITIONS

A. Violation from Discharge - Duty to Comply

All discharges authorized herein shall be consistent with the terms and conditions of this Permit. All discharges authorized by this Permit shall comply with all terms and conditions of City Ordinances, including discharge limitations therein, and all other applicable Ordinances and Regulations. Any violation thereof shall be just cause for the City to revoke this Permit and take any other actions deemed appropriate by the City. The discharge of any pollutant more frequently than, or at a level in excess of, that identified and authorized by this Permit shall constitute a violation of the terms and conditions of this Permit. Such a violation may result in the imposition of civil and/or criminal penalties as provided for in the City Industrial Pretreatment Ordinance and/or other applicable Laws, Ordinances, and/or Regulations.

B. Permit Modification, Suspension, Revocation

This permit may be modified, suspended, or revoked in whole or in part during its term by the City for causes including the following:

- (1) Failure to provide prior notification to the City of changed conditions pursuant to Section 6.5 of the City's Sewer Use Ordinance.
- (2) Misrepresentation or failure to disclose fully all relevant facts in the wastewater discharge permit application;
- (3) Falsifying self-monitoring or other reports;
- (4) Tampering with monitoring equipment;
- (5) Refusing to allow the City timely access to the facility premises and records;
- (6) Failure of the user to meet the effluent limitations contained in the wastewater discharge permit;
- (7) Failure to pay fines after the appeal process has been exhausted;
- (8) Failure to pay sewer charges;
- (9) Failure to meet compliance schedules;
- (10) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (11) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the City's Sewer Use Ordinance

Comment [MSOffice4]: This was a recommendation in my original review and while you can choose to leave it out, I generally think that falsifying any reports should qualify.

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Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

C. Right of Entry

The permittee shall allow duly authorized representatives of the City bearing proper credentials and identification:

(1) To enter all properties for the purpose of inspection, observation, measurement, sampling, and testing to determine compliance with the provisions of this Permit at any time;

(2) To examine and copy any and all records required to be maintained by Permittee for the purpose of determining compliance with Pretreatment Standards and Regulations, this Permit and/or applicable Ordinances.

D. Re-Opener Clause

This permit will be reopened and modified to incorporate any new or revised Federal, State, or Local Pretreatment Standards or requirements.

E. Facilities Operation

The Permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the Permittee to achieve compliance with the terms and conditions of this Permit.

F. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed as a result of industrial processing activities or in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the collection system or the City's Wastewater treatment plant.

The disposal of such materials shall be done in accordance with Section 405 of the Clean Water Act and Subtitles C and D of Resource Conservation and Recovery Act and applicable State Regulations. Copies of all manifests and documents pertaining to the disposal of such materials shall be retained and made available to City personnel upon request.

G. Discharge of Listed or Characteristic Wastes

There shall be no discharge into the wastewater treatment system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, except in accordance with the provisions of Part IV, Section I of this permit.

H. Transfer of Ownership or Control

This Wastewater Discharge Permit issued for industrial usage of the system shall not be reassigned or transferred or sold to a new owner, new user, or different premises without the express written consent of the City. At least thirty (30) days advance written notice must be provided.

I. Property Rights

The issuance of this Permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, state, or local laws or regulations.

J. Severability

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid by a Court of Law, the application of such provision to other circumstances, and the remainder of this Permit, shall not be affected thereby.

K. Reapplication

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.6 of the City's Sewer Use Ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. Having met this requirement, the users existing permit shall remain in effect until a new permit is issued.

L. Personnel Safety

The Permittee shall provide safe inspection conditions for City personnel and shall provide such personnel with all necessary safety information, including but not limited to appropriate clothing and safety equipment to be worn within the facility, exposure to airborne contaminants, and noise hazard levels.

M. Records Retention

The Permittee shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or in behalf of the user in connection with its discharge.

N. Confidential Information/Availability of Reports

Except for data determined to be confidential under Section 308 of the Clean Water Act, 33 U.S.C. §1318 all submitted data shall be available for public inspection at the City's [REDACTED]

O. Falsifying Information

Knowingly making any false statement on any report or other document required by this Permit or knowingly rendering any monitoring device or method inaccurate, subjects the Permittee to criminal law proceedings as well as civil penalties and injunctive relief.

P. Action on Violations

The issue or reissue of this permit does not constitute a decision by the City not to proceed in an administrative, civil, or criminal action for any violations of law or regulations occurring before the issue or reissue of this Permit, nor a waiver of the City's right to do so.

Q. Penalties for Violations of Permit Conditions

Any Permittee who violates a Permit condition is subject to a fine up to \$25,000 per day per violation per Section 11.2(A) of City Ordinance No. 17-98 or its subsequent amendments.

R. Compliance Monitoring

The City [REDACTED] conduct sampling and analysis of wastewater from this permitted facility and charge for this service in accordance with City Ordinance No. 17-98 or its subsequent amendments.

Bucks Packing Company Inc.
PERMIT NO. 30

PART VI - COMPLIANCE SCHEDULE

None at this time.

Permit Form Review - Reading

As part of the audit conducted of the pretreatment program of the City of Reading, a review of a sample permit was conducted. For this review, the permit issued to Tom Sturgis Pretzels, Inc., effective January 1, 2006 was used. In addition to the key elements of the permit that are evaluated during the file review, a review of the permit was conducted to evaluate consistency with the General Pretreatment Regulations (including the October 14, 2005 "streamlining" amendments) and local ordinances. Even where the permit is not inconsistent with EPA regulations or local ordinances, the provisions of the permit have been reviewed for suggested wording changes to strengthen or clarify the permits. Comments detailed below are intended to clarify the notations on the attached permit. Typographical errors identified during the review are noted on the attached copy of the reviewed permit.

General

The pages of the permit are numbered, which is appropriate. However, it is **recommended** that the formatting of the numbering be changed to also reflect the total number of pages in the permit (i.e., 1 of 17, 2 of 17, etc.).

It is unclear whether this specific user is subject to any best management requirements (spill/slug control would often fall within the definition of best management practices). However, based on the streamlining amendments to EPA's pretreatment regulations, if the user is subject to any best management practice requirements, these requirements **must** be included in the permit. In addition, where best management practices apply, the user **must** be required to provide documentation demonstrating compliance with the best management practices.

Page 1

The City's ordinance authorizes issuance of permits by the City. In its definition of "City", the ordinance indicates that the "Industrial Waste Administrator" is authorized to implement the pretreatment program, and therefore the permits need to be signed by the Industrial Waste Administrator. For the reviewed permit, the cover letter of the permit was signed by the Environmental Division Manager, and the permit itself was not signed. Permits **must** be signed in accordance with the City ordinance, and therefore must be signed by the Industrial Waste Administrator. While the signature on the cover letter may be sufficient for issuance of the permit, it is **recommended** that the permit itself be signed. In addition, the permit includes the effective and expiration dates for the permit. While these are the two most important dates for the permit, it is **recommended** that the permit also include the issuance date, or the date that the permit was signed. Note that the issuance date does not need to be the same as the effective date, but cannot be later than the effective date.

Page 2

Part I.A of the permit lists the limits applicable to the user. However, as part of its most

recently approved local limits, the City developed and received approval of a maximum allowable industrial loading (MAIL) for free cyanide. The permits issued to industrial users **must** include limits for all local limit pollutants. Since a MAIL was approved for free cyanide, it is considered an approved local limit pollutant, and a limit for this pollutant **must** be included in the permits.

Page 4

Part II.A of the permit lists the monitoring frequency for self-monitoring by the user, and the frequency listed for many of the pollutants is once per year. 40 CFR 403.12(e) and (h) both require that self-monitoring be conducted at least semi-annually. For local limit pollutants, the City may eliminate (or reduce to a frequency of less than twice per year) self-monitoring if there is no reasonable potential for violation of the local limit. However, when self-monitoring is conducted less than semi-annually for any pollutants, the City **must** document its determination that there is no reasonable potential for violation of those pollutants. This documentation should generally be based on a review of the facility and past monitoring data.

This section of the permit also requires a single grab sample for oil and grease, total cyanide, and total phenols. Grab sampling for these pollutants is appropriate. However, the City must require the appropriate number of grab samples that will be representative of the discharge during the sampling day, and is responsible for documenting the site-specific circumstances that support its determination. While it is not clear based on the permit review whether a single grab sample would be representative of the discharge on the day of sampling, the City **must** document its determination, and revise the number of grab samples required, if appropriate.

In addition, Part II.A(5) of the permit requires that the user conduct its quarterly sampling during the months of January, April, July, and October, and that annual samples be collected during April. While the City may specify the times that sample collection must occur, it **must** also ensure that these times will always be representative of the discharge, and that the reasons for the determination are documented in the user's file.

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Part III.C of the permit addresses treatment bypass by the user. This provision is similar to 40 CFR 403.17 and the City's ordinance, but is different in a few important ways, and therefore **must** be revised. Part III.C (1) of the permit prohibits bypass unless it is unavoidable or no alternatives exist. First, EPA regulations and the City's ordinance require that both of these conditions be met, and so the "or" **must** be changed to an "and". EPA regulations and the City's ordinance both also require that notification of the bypass be provided as a condition, and therefore this **must** be added to the provision as well. Finally, Part III.C (2) of the permit indicates that the permittee may allow any bypass to occur that does not violate "effluent limitations". Both EPA regulations and the City's ordinance use the phrase "pretreatment standards or requirements". Since this is a more inclusive term, the permit provision **must** be revised.

Page 8

Part IV.C of the permit includes the record keeping requirements for the user, and includes all of the requirements specifically included in the General Pretreatment Regulations. However, the provision does not specifically include a requirement that the user maintain documentation on the preservatives added to the sample. Since sampling requirements include preservation based on 40 CFR 136 and this information would be necessary for the City to evaluate whether the user is sampling in accordance with Part 136, it is **recommended** that the record keeping requirements specifically include preservatives added to the sample. In addition, as part of the streamlining amendments of the pretreatment regulations, EPA added a provision to the record keeping requirements in 40 CFR 403.12(o) that requires users to maintain documentation of compliance with any best management practices. While it is unclear whether this specific user is subject to any best management practices (spill/slug control would often fall within the definition of best management practices), since maintaining this data is a general requirement for all users, the permit **must** be revised to require that the users maintain documentation on compliance with best management practices.

Section IV.D of the permit requires that the user resample in the event that self-monitoring shows a violation. This is consistent with EPA requirements. However, Part IV.D (1) of the permit indicates that the user is not required to resample if the user conducts monthly sampling. Under EPA regulations, resampling would not be required if the City conducts monthly monitoring. If the user conducts monthly monitoring, the monitoring event for the next month could be used for the resampling event, but the requirement that the resample be submitted within 30 days of discovery of the violation still applies. Since the permit would not currently require that the resample be submitted within 30 days (this permit requires quarterly reporting), it **must** be revised. In addition, it is **recommended** that this provision be clarified to note that the resampling is only required for the violated pollutants, and not necessarily for all of the pollutants that had been sampled.

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As part of the streamlining amendments to the pretreatment regulations, EPA promulgated a requirement that any applicable slug control requirements be included in the user's permit. The fourth paragraph of Part IV.E of the permit requires that the user "ensure implementation of its spill prevention and control plan." While this is probably sufficient to require implementation of the spill plan, it is **recommended** that the spill plan be more specifically incorporated by referencing the date (and specific title if appropriate) of the plan and approval by the City. In addition, since the requirement to implement the plan is actually a separate requirement from reporting of discharges, it is **recommended** that the requirement to implement the plan be made a separate section of the permit.

In regard to the reporting of accidental discharges, it is recommended that several other changes be made to Part IV.E of the permit. In the first paragraph of this section, the user is required to minimize impact to the treatment plant. However, since spills and slug discharges can also impact the collection system, it is **recommended** that this be broadened to include the treatment plant and collection system. In addition, since a slug discharge would not necessarily

✓ violate an effluent limit in the permit (the discharge could be of a pollutant that has no specific limit), it is **recommended** that "non-compliance with any effluent limitation specified in this Permit" be revised to something similar to "discharge to the POTW."

✓ The second paragraph of Part IV.E of the permit requires notification of spills, slugs and accidental discharges, as well as significant changes in operations and wastewater characteristics and constituents, but only those "that may cause environmental harm or hazard to the wastewater treatment plant or that does or may violate these permit conditions." First, EPA regulations do not restrict the types of slug discharges that must be reported, and so the restriction that the discharge cause harm or violate permit requirements **must** be removed. In addition, EPA regulations also require reporting of any discharges that "could cause problems to the POTW." While the type of discharges that are most likely to cause problems would include spills, slugs and accidental discharges, the "could cause problems" language is broader than the language currently in the permit, and therefore the provision **must** be revised. Finally, since Part IV.F of the permit requires reporting of facility changes, it is **recommended** that the reporting of changes be removed from Part IV.E of the permit in order to eliminate any potential confusion related to the different language.

✓ The fifth paragraph of Part IV.E requires a follow-up, written report on spills, slugs and accidental discharges, but also includes the language on environmental harm, permit violations, and facility changes. As with the second paragraph of this section, the language on environmental harm and permit violations **must** be removed, and it is **recommended** that the language on facility changes be removed.

✓ Parts IV.E (1), (2) and (3) of the permit describe the contents of the follow-up report. In paragraph (1) and (3), it is **recommended** that the "upset, spill or slug discharge" language be expanded to include "other discharges that could cause problems" in conjunction with similar comments above. In addition, rather than requiring reporting of the "duration of noncompliance" as noted in paragraph (2), it is **recommended** that reporting on the duration of the upset, spill, accidental discharge, or other discharge that could cause problems because it is not clear that these discharges would always be a violation of the users's permit. Elimination of the "noncompliance" language would eliminate any potential for argument over whether a discharge otherwise would be a violation and need to be reported.

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✓ Part IV.F of the permit requires reporting of facility changes that result in new or increased discharges. As part of the streamlining revisions to the pretreatment regulations, users are now required to report any changes that impact the potential for slug discharges. Since the City's permit only requires reporting of changes that impact the actual discharge rather than those that impact the potential for discharge, the permit form **must** be revised to require reporting of any changes that impact the potential for slug discharges. This can be done by revising Part IV.F or by adding a separate notification requirement for slug potential.

Part IV.G (1)(a) of the permit defines who can sign reports for a corporation, and uses the term "corporate officer" to identify the main signatory. However, EPA regulations are

✓ somewhat more specific defining the signatory as "a president, secretary, treasurer, or vice-president in charge of a principal business function." While it is not clear that these two signatories would be significantly different, it is **recommended** that the more specific language from EPA's regulations be used. In addition, Part IV.G (2)(b) gives examples of other positions that may be used as a signatory if a written authorization is submitted. However, the first example (President/Treasurer) is already allowed to sign the reports and would not require a written authorization. It is **recommended** that the examples in the permit (President/Treasurer, superintendent) be revised to reflect the examples in EPA's regulations (plant manager, operator of a well, well field superintendent).

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Part V.B (3) of the permit states that falsification of self-monitoring reports is cause for modification, suspension or revocation of the permit. It is **recommended** that reports other than the self-monitoring reports be included in this provision.

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✓ Part V.G of the permit prohibits the discharge of hazardous waste into the sewer system. This is acceptable. However, this provision starts with the phrase, "In accordance with 40 CFR 403.12(p)." 403.12(p) does not prohibit the discharge of hazardous waste into a POTW, only reporting if it does occur. Therefore, it is **recommended** that the reference to 403.12(p) be deleted from this provision.

Page 16

✓ Part V.N of the permit indicates that data submitted by the user will be made available to the public unless it is determined to be confidential, and states that the data will be available for review "at the City's industrial waste administrator's office and the Regional Administrator of the Environmental Protection Agency." It is unclear whether some words were left out or if the reference to EPA should be deleted. In either case, the records are generally not available at EPA, and so this **should** be revised. Note that the City must provide EPA access to the data even if it is determined to be confidential.

✓ Part V.R of the permit notes that the City "will" conduct sampling. Even though EPA requires the City to conduct sampling at significant industrial users, it is **recommended** that this be revised to state that the City "may" conduct sampling in order to avoid any potential permit issues in the event that the City does not conduct sampling for any reason.

Industrial User Self-Monitoring Report Form

On the first page of this form, the title of the alternate representative is not indicated. Note that in order for the alternate representative to be allowed to sign reports, this person must have responsibility for the facility (e.g., plant manager) or must have overall responsibility for environmental matters for the company.

On the third page of the report form, the note indicated by "* *" requires recording of daily flows using the form provided. However, the only form for recording flow included with the report form allows only for recording of monthly average flows. It is **recommended** that

either the flow form be changed to provide space for daily flows, or the requirement for use of the flow form be eliminated from the report form.

The last sentence of the final note on page three of the report form states that it is the users responsibility to use the "attached" report form. However, since this note is part of the report form, it is **recommended** that "attached" be deleted.

Missing Provisions

EPA regulations and the City's ordinance include a number of general and specific prohibitions on discharges into the sewer system. Although the permit references the City's ordinance, it does not include the general and specific prohibitions. It is **recommended** that all of the general and specific prohibitions be specifically included in the permit to ensure that the user has had notice that these types of discharges are prohibited.

40 CFR 403.6(d) prohibits dilution as a substitute for treatment. Although EPA regulations do not specifically require that the dilution prohibition be included in permits issued to industrial users, it is **recommended** that the prohibition be included.

B. All samples shall be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR, Part 136 and amendments.

C. Results shall be reported using the attached self-monitoring report forms. See Section IV for requirements.

D. Other Permit Conditions

The permittee shall notify the City immediately of any changes at the facility affecting the potential for a slug discharge. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the POTW's (publicly owned treatment works) regulations, local limits or permit conditions.

The Permittee shall maintain or provide documentation demonstrating compliance with the best management practices listed below.

■ A Spill Prevention and Control Plan (Accidental Discharge/Slug Control Plan) that has been submitted to the City for approval must be maintained and implemented by the Permittee. A plan entitled _____, dated _____ and signed _____ was submitted to the City for approval. The Permittee is required to maintain and implement this plan at its facility.

PART III - OPERATION & MAINTENANCE OF POLLUTION CONTROLS

A. Pretreatment Facilities and Control Structure Provisions

Where deemed necessary to comply with applicable regulations and the terms of this permit, the Permittee shall provide suitable pretreatment facilities. They shall be planned, designed, constructed, owned, operated, and maintained by the Permittee at his expense and shall be located for ease of inspection and cleaning.

A summary of the pretreatment system currently provided by Permittee follows:

Rotary Hydro Coll
Oil Skimmer

It is Permittee's responsibility to effectively manage these facilities. Failure to do so constitutes a violation of City's regulations and is subject to enforcement as cited therein.

The Permittee shall also provide a suitable control structure for the inspection, observation, sampling, and flow measurement of the Permittee's industrial contribution. The control structure shall be safe, accessible at all times, secure from unauthorized tampering, and continuously operated and maintained at the Permittee's expense. In addition to being compatible with all of the Permittee's monitoring requirements, the control structure shall be of suitable capabilities so as to accommodate the installation of the City's monitoring equipment.

B. Duty to Halt or Reduce Activity

Upon reduction, loss or failure of the treatment facility, the Permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced.

C. Bypass of Treatment Facilities

- (1) Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage and no feasible alternatives exist and the reporting and notification requirements of Section C(3) below have been met.
- (2) Bypass not exceeding limitations. The Permittee may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. This type of by-passing is not subject to the reporting and notification requirements of Section C(3) below.
- (3) Notification of bypass:
 - (a) Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior written notice to the City at least ten (10) days before the date of the bypass.
 - (b) Unanticipated bypass. The Permittee shall within 24 hours of becoming aware of any unanticipated bypass that exceeds pretreatment standards notify the City and submit a written notice to the City within 5 days. This report shall specify:
 - (i) A description of the bypass, and its cause, including its duration and exact dates and time;
 - (ii) Whether the bypass has been corrected; and anticipated time it is expected to continue (if on-going);
 - (iii) The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

PART IV - REPORTING REQUIREMENTS

A. Monitoring results obtained shall be summarized and reported on an Industrial User Monitoring Form on a quarterly basis: by April 30th (for the January through March monitoring period); by July 31st (for the April through June monitoring period); October 31st (for the July through September monitoring period); and by January 31st (for the October through December monitoring period). Contents of the report are defined under Part II, Section A of this permit.

(1) Where the Permittee contracts sample analyses (in satisfaction of monitoring requirements), a copy of the laboratory report showing results, methods used, and signature(s) shall be included with the self-monitoring report. It is the Permittee's responsibility to ensure contract laboratory compliance with Part II, Section B of this permit.

(2) Where the Permittee performs sample analyses in satisfaction of monitoring requirements, the Permittee shall ensure compliance with Part II, Section B of this permit.

B. If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of such monitoring shall be included in the calculation and results shall be reported in the report and submitted to the City.

C. Data Recording Requirements

For each sample or measurement taken pursuant to the requirements of this permit, the Permittee shall record the following information: The exact place, date, and time of sampling or measurement; the sample method (e.g. grab or composite); preservatives added to the samples; the person(s) who performed the sampling or measurement; the dates and times the analyses were performed; the name(s) of the analyst; the analytical techniques or methods used; and the results of all required analyses.

D. Automatic Resampling/Non-Compliance Notification

If sampling performed by the Permittee indicates a violation, the user shall notify the City within 24 hours of becoming aware of the violation. The Permittee shall also repeat the sampling and analysis for the pollutant(s) in violation and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation. The Permittee is not required to resample if:

BM's?
pg 5 OK

(1) The Permittee performs sampling at a frequency of at least once per month for the parameter in violation and submits the results to the City within 30 days of the violation detection, or

(2) The City performs sampling at the Permittee between the time when the Permittee performs its initial sampling and the time when the Permittee receives the results of this sampling. *or*

(3) The City performs sampling at the Permittee at a frequency of at least once per month.

E. Adverse Impact/Slug Loading Notification - Accidental Discharge Report

The Permittee shall take all reasonable steps to minimize any adverse impact to the public treatment works *or collection system?* resulting from any discharge to the system, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

The Permittee shall immediately notify the City by phone of slug discharges, spills that may enter the public sewer, accidental discharges, or discharges that could cause problems to the public treatment works. The telephone number to report any accidental spills or discharges is 610-655-6131 between 7:00AM to 4:00PM. The after hours phone number for reporting spills is 610-655-6300.

Telephone notification shall include the location of discharge, date and time of discharge, type of waste, concentration and volume, and corrective action taken.

The Permittee shall notify all employees of the emergency notification procedure and shall ensure implementation of its spill prevention and control plan.

Within five (5) days of notification of a slug discharge, spill, accidental discharge, or discharge that could cause problems to the public treatment works, provide the City in writing with the following information:

(1) Description and cause of the upset, slug, spill, accidental discharge or discharge that could cause problems to the public treatment works and the impact on the Permittee's compliance status. The description should also include location of discharge, type of waste, concentration and volume of waste.

(2) Duration of the upset, slug, spill, accidental discharge or discharge that could cause problems to the public treatment works including exact dates and times of discharge. *and if continuing, the time by which the incident is expected to cease*

(3) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset, slug, spill, accidental discharge or discharge that could cause problems to the public treatment works.

The City reserves all rights and remedies that it has under or by reason of any statutory law, ordinance, or common law to cure any act of non-compliance with this Permit or to enforce any penalty for the non-compliance therewith.

The Permittee shall indemnify the City and any municipality through which its waste passes for all damages, fines, and costs incurred as a result of industrial waste discharge from Permittee's facility, including but not limited to fines or costs stemming from injury to personnel of the parties, damage to sewerage facilities, disruption of treatment process or operations, degradation of sludge quality, NPDES permit violations, and other air, water, and sludge quality violations, legal fees, expenses of collection and al/Yrtement attributable to the Permittee.

F. Facility Changes

The Permittee shall give notice to the City thirty (30) days prior to any facility expansion, production increase, or process modifications which result in new or substantially increased discharges or a change in the nature of the discharge.

For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty percent (20%) or greater and the discharge of any previously unreported pollutants.

G. Signatory Requirements

(1) All applications, correspondence, reports and self-monitoring reports shall be signed and certified:

(a) For a corporation: By the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively;

(c) For a government entity or agent thereof: By a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

(2) All applications, correspondence, reports, and self-monitoring reports may be signed by a duly authorized representative of the person described above. A person is a duly authorized representative only if:

(a) The authorization is made in writing to the City by a person described above;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager or a position of equivalent responsibility, or having overall responsibility for environmental matters of the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

(3) Certification. All applications and reports shall contain the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

H. Provisions Governing Fraud and False Statements

The reports and other documents required to be submitted or maintained under this section shall be subject to:

(1) The provisions of 18 USC Section 1001 relating to fraud and false statements;

(2) The provisions of Section 309(c)(4) of the Clean Water Act, as amended, governing false statements, representation or certification; and

(3) The provisions of Section 309(c)(6) of the Clean Water Act regarding responsible corporate officers.

I. Notification of Discharge of Listed or Characteristic Wastes

In accordance with 40 CFR 403.12(p), the Permittee shall notify the City, the U.S. Environmental Protection Agency (EPA) Region III, Director of Waste Management Division and the Pennsylvania Department of Environmental Protection (DEP), in writing of any discharge into the wastewater treatment plant, of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. (See Attachment A for sample notification form. This form shall be updated by the Permittee at least annually by January 30th if hazardous waste is discharged.)

J. All reports required by this permit shall be submitted to the City at the following address:

City of Reading
Wastewater Treatment Plant-Pretreatment
815 Washington Street
Reading, PA 19601-3690

PART V - GENERAL CONDITIONS

A. Violation from Discharge - Duty to Comply

All discharges authorized herein shall be consistent with the terms and conditions of this Permit. All discharges authorized by this Permit shall comply with all terms and conditions of City Ordinances, including discharge limitations therein, and all other applicable Ordinances and Regulations. Any violation thereof shall be just cause for the City to revoke this Permit and take any other actions deemed appropriate by the City. The discharge of any pollutant more frequently than, or at a level in excess of, that identified and authorized by this Permit shall constitute a violation of the terms and conditions of this Permit. Such a violation may result in the imposition of civil and/or criminal penalties as provided for in the City Industrial Pretreatment Ordinance and/or other applicable Laws, Ordinances, and/or Regulations.

B. Permit Modification, Suspension, Revocation

This permit may be modified, suspended, or revoked in whole or in part during its term by the City for causes including the following:

(1) Failure to provide prior notification to the City of changed conditions pursuant to Section 6.5 of the City's Sewer Use Ordinance.

(2) Misrepresentation or failure to disclose fully all relevant facts in the wastewater discharge permit application;

(3) Falsifying self-monitoring ^{or other} reports;

(4) Tampering with monitoring equipment;

(5) Refusing to allow the City timely access to the facility premises and records;

(6) Failure of the user to meet the effluent limitations contained in the wastewater discharge permit;

(7) Failure to pay fines after the appeal process has been exhausted;

(8) Failure to pay sewer charges;

(9) Failure to meet compliance schedules;

(10) Failure to complete a wastewater survey or the wastewater discharge permit application;

(11) Failure to provide advance notice of the transfer of business ownership of a permitted facility;

(12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the City's Sewer Use Ordinance

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

C. Right of Entry

The permittee shall allow duly authorized representatives of the City bearing proper credentials and identification:

(1) To enter all properties for the purpose of inspection, observation, measurement, sampling, and testing to determine compliance with the provisions of this Permit at any time;

(2) To examine and copy any and all records required to be maintained by Permittee for the purpose of determining compliance with Pretreatment Standards and Regulations, this Permit and/or applicable Ordinances.

D. Re-Opener Clause

This permit will be reopened and modified to incorporate any new or revised Federal, State, or Local Pretreatment Standards or requirements.

E. Facilities Operation

The Permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the Permittee to achieve compliance with the terms and conditions of this Permit.

F. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed as a result of industrial processing activities or in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the collection system or the City's Wastewater treatment plant.

The disposal of such materials shall be done in accordance with Section 405 of the Clean Water Act and Subtitles C and D of Resource Conservation and Recovery Act and applicable State Regulations. Copies of all manifests and documents pertaining to the disposal of such materials shall be retained and made available to City personnel upon request.

G. Discharge of Listed or Characteristic Wastes

There shall be no discharge into the wastewater treatment system, of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, except in accordance with the provisions of Part IV, Section I of this permit.

H. Transfer of Ownership or Control

This Wastewater Discharge Permit issued for industrial usage of the system shall not be reassigned or transferred or sold to a new owner, new user, or different premises without the express written consent of the City. At least thirty (30) days advance written notice must be provided.

I. Property Rights

The issuance of this Permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, state, or local laws or regulations.

J. Severability

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid by a Court of Law, the application of such provision to other circumstances, and the remainder of this Permit, shall not be affected thereby.

K. Reapplication

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.6 of the City's Sewer Use Ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. Having met this requirement, the user's existing permit shall remain in effect until a new permit is issued.

L. Personnel Safety

The Permittee shall provide safe inspection conditions for City personnel and shall provide such personnel with all necessary safety information, including but not limited to appropriate clothing and safety equipment to be worn within the facility, exposure to airborne contaminants, and noise hazard levels.

M. Records Retention

The Permittee shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or in behalf of the user in connection with its discharge.

N. Confidential Information/Availability of Reports

Except for data determined to be confidential under Section 308 of the Clean Water Act, 33 U.S.C. §1318 all submitted data shall be available for public inspection at the City's industrial waste administrator's office.

O. Falsifying Information

Knowingly making any false statement on any report or other document required by this Permit or knowingly rendering any monitoring device or method inaccurate, subjects the Permittee to criminal law proceedings as well as civil penalties and injunctive relief.

P. Action on Violations

The issue or reissue of this permit does not constitute a decision by the City not to proceed in an administrative, civil, or criminal action for any violations of law or regulations occurring before the issue or reissue of this Permit, nor a waiver of the City's right to do so.

Q. Penalties for Violations of Permit Conditions

Any Permittee who violates a Permit condition is subject to a fine up to \$25,000 per day per violation per Section 11.2(A) of City Ordinance No. 17-98 or its subsequent amendments.

R. Compliance Monitoring

The City may conduct sampling and analysis of wastewater from this permitted facility and charge for this service in accordance with City Ordinance No. 17-98 or its subsequent amendments.

PART VI - COMPLIANCE SCHEDULE

None at this time.



<jackie.hendricks@readingpa.org>

04/23/2010 04:20 PM

To John Lovell/R3/USEPA/US@EPA

cc.

bcc

Subject

History: This message has been replied to.

Dear John

I am enclosing a copy of the changes I made to the permit as per your June 28, 2006 letter addressing the last EPA audit of the City's Pretreatment Program.

The changed areas are in blue. The green highlights are for my use and indicate areas that are IU specific and have to be changed from permit to permit.

There are other changes in the beginning pages of the permit as well as in the Industrial User Self Monitoring Report Form. These changes are mostly industrial user specific. I will send you a full permit later so you will be able to see the other changes.

The changes I am sending you today are applicable to all permits. The only section that will vary will be on page 5, Section D – Other Permit Conditions. I use this section for additional requirements that are industrial user specific.

For the Annual Report we recently submitted – we always included the Proof of Publication statement from the Reading Eagle. It was not included this year. It arrived after we sent the Annual Report. This is because our ad had to be reprinted on the Sunday following our original submission. The newspaper omitted the name of one of the IUs. They reprinted our full ad free of charge and this delayed the invoice and Proof of Publication statement. Do you want us to send this statement to you to add to the Annual Report?



A new permit format with mark ups.doc

B. All samples shall be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR, Part 136 and amendments.

C. Results shall be reported using the attached self-monitoring report forms. See Section IV for requirements.

D. Other Permit Conditions

The [REDACTED]
 for [REDACTED]
 any [REDACTED]
 an [REDACTED]
 is [REDACTED]
 way [REDACTED]
 limit [REDACTED]


The [REDACTED]
 Com [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

PART III - OPERATION & MAINTENANCE OF POLLUTION CONTROLS

A. Pretreatment Facilities and Control Structure Provisions

Where deemed necessary to comply with applicable regulations and the terms of this permit, the Permittee shall provide suitable pretreatment facilities. They shall be planned, designed, constructed, owned, operated, and maintained by the Permittee at his expense and shall be located for ease of inspection and cleaning.

A summary of the pretreatment system currently provided by Permittee follows:



It is Permittee's responsibility to effectively manage these facilities. Failure to do so constitutes a violation of City's regulations and is subject to enforcement as cited therein.

The Permittee shall also provide a suitable control structure for the inspection, observation, sampling, and flow measurement of the Permittee's industrial contribution. The control structure shall be safe, accessible at all times, secure from unauthorized tampering, and continuously operated and maintained at the Permittee's expense. In addition to being compatible with all of the Permittee's monitoring requirements, the control structure shall be of suitable capabilities so as to accommodate the installation of the City's monitoring equipment.

B. Duty to Halt or Reduce Activity

Upon reduction, loss or failure of the treatment facility, the Permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced.

C. Bypass of Treatment Facilities

- (1) Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage [REDACTED] no feasible alternatives exist [REDACTED].

- (2) Bypass not exceeding limitations. The Permittee may allow any bypass to occur which does not cause [REDACTED], but only if it also is for essential maintenance to assure efficient operation. This type of by-passing is not subject to the reporting and notification requirements of Section C(3) below.

(3) Notification of bypass:

- (a) Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior written notice to the City at least ten (10) days before the date of the bypass.
- (b) Unanticipated bypass. The Permittee shall within 24 hours of becoming aware of any unanticipated bypass that exceeds pretreatment standards notify the City and submit a written notice to the City within 5 days. This report shall specify:
- (i) A description of the bypass, and its cause, including its duration and exact dates and time;
 - (ii) Whether the bypass has been corrected; and anticipated time it is expected to continue (if on-going);
 - (iii) The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

PART IV - REPORTING REQUIREMENTS

A. Monitoring results obtained shall be summarized and reported on an Industrial User Monitoring Form on a quarterly basis: by April 30th (for the January through March monitoring period); by July 31st (for the April through June monitoring period); October 31st (for the July through September monitoring period); and by January 31st (for the October through December monitoring period). Contents of the report are defined under Part II, Section A of this permit.

(1) Where the Permittee contracts sample analyses (in satisfaction of monitoring requirements), a copy of the laboratory report showing results, methods used, and signature(s) shall be included with the self-monitoring report. It is the Permittee's responsibility to ensure contract laboratory compliance with Part II, Section B of this permit.

(2) Where the Permittee performs sample analyses in satisfaction of monitoring requirements, the Permittee shall ensure compliance with Part II, Section B of this permit.

B. If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of such monitoring shall be included in the calculation and results shall be reported in the report and submitted to the City.

C. Data Recording Requirements

For each sample or measurement taken pursuant to the requirements of this permit, the Permittee shall record the following information: The exact place, date, and time of sampling or measurement; the sample method (e.g. grab or composite); [REDACTED]; the person(s) who performed the sampling or measurement; the dates and times the analyses were performed; the name(s) of the analyst; the analytical techniques or methods used; and the results of all required analyses.

D. Automatic Resampling/Non-Compliance Notification

If sampling performed by the Permittee indicates a violation, the user shall notify the City within 24 hours of becoming aware of the violation. The Permittee shall also repeat the sampling and analysis [REDACTED] [REDACTED] and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation. The Permittee is not required to resample if:

[REDACTED]

(1) The Permittee performs sampling at a frequency of at least once per month for the parameter in violation and submits the results to the City within 30 days of the violation detection, or

(2) The City performs sampling at the Permittee between the time when the Permittee performs its initial sampling and the time when the Permittee receives the results of this sampling.

[REDACTED]

E. Adverse Impact/Slug Loading Notification - Accidental Discharge Report

The Permittee shall take all reasonable steps to minimize any adverse impact to the public treatment [REDACTED] resulting from [REDACTED] [REDACTED], including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

[REDACTED]

The [REDACTED] The telephone number to report any accidental spills or discharges is 610-655-6131 between 7:00AM to 4:00PM. The after hours phone number for reporting spills is 610-655-6300.

Telephone notification shall include the location of discharge, date and time of discharge, type of waste, concentration and volume, and corrective action taken.

The Permittee shall notify all employees of the emergency notification procedure and shall ensure implementation of its spill prevention and control plan.

[REDACTED] provide the City in writing with the following information:

(1) Description and cause of the [REDACTED] and the impact on the Permittee's compliance status. The description should also include location of discharge, type of waste, concentration and volume of waste.

(2) [REDACTED]

(3) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an [REDACTED].

The City reserves all rights and remedies that it has under or by reason of any statutory law, ordinance, or common law to cure any act of non-compliance with this Permit or to enforce any penalty for the non-compliance therewith.

The Permittee shall indemnify the City and any municipality through which its waste passes for all damages, fines, and costs incurred as a result of industrial waste discharge from Permittee's facility, including but not limited to fines or costs stemming from injury to personnel of the parties, damage to sewerage facilities, disruption of treatment process or operations, degradation of sludge quality, NPDES permit violations, and other air, water, and sludge quality violations, legal fees, expenses of collection and al/Yrtement attributable to the Permittee.

F. Facility Changes

The Permittee shall give notice to the City [REDACTED] prior to any facility expansion, production increase, or process modifications which result in new or substantially increased discharges or a change in the nature of the discharge.

For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty percent (20%) or greater and the discharge of any previously unreported pollutants.

G. Signatory Requirements

(1) All applications, correspondence, reports and self-monitoring reports shall be signed and certified:

(a) [REDACTED]

[REDACTED]

(b) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively;

(c) [REDACTED]

(2) All applications, correspondence, reports, and self-monitoring reports may be signed by a duly authorized representative of the person described above. A person is a duly authorized representative only if:

(a) The authorization is made in writing to the City by a person described above;

(b) [REDACTED]

(3) Certification. All applications and reports shall contain the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

H. Provisions Governing Fraud and False Statements

The reports and other documents required to be submitted or maintained under this section shall be subject to:

(1) The provisions of 18 USC Section 1001 relating to fraud and false statements;

(2) The provisions of Section 309(c)(4) of the Clean Water Act, as amended, governing false statements, representation or certification; and

(3) The provisions of Section 309(c)(6) of the Clean Water Act regarding responsible corporate officers.

I. Notification of Discharge of Listed or Characteristic Wastes

In accordance with 40 CFR 403.12(p), the Permittee shall notify the City, the U.S. Environmental Protection Agency (EPA) Region III, Director of Waste Management Division and the Pennsylvania Department of Environmental Protection (DEP), in writing of any discharge into the wastewater treatment plant, of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. (See Attachment A for sample notification form. This form shall be updated by the Permittee at least annually by January 30th if hazardous waste is discharged.)

J. All reports required by this permit shall be submitted to the City at the following address:

City of Reading
Wastewater Treatment Plant-Pretreatment
815 Washington Street
Reading, PA 19601-3690

PART V - GENERAL CONDITIONS

A. Violation from Discharge - Duty to Comply

All discharges authorized herein shall be consistent with the terms and conditions of this Permit. All discharges authorized by this Permit shall comply with all terms and conditions of City Ordinances, including discharge limitations therein, and all other applicable Ordinances and Regulations. Any violation thereof shall be just cause for the City to revoke this Permit and take any other actions deemed appropriate by the City. The discharge of any pollutant more frequently than, or at a level in excess of, that identified and authorized by this Permit shall constitute a violation of the terms and conditions of this Permit. Such a violation may result in the imposition of civil and/or criminal penalties as provided for in the City Industrial Pretreatment Ordinance and/or other applicable Laws, Ordinances, and/or Regulations.

B. Permit Modification, Suspension, Revocation

This permit may be modified, suspended, or revoked in whole or in part during its term by the City for causes including the following:

- (1) Failure to provide prior notification to the City of changed conditions pursuant to Section 6.5 of the City's Sewer Use Ordinance.
- (2) Misrepresentation or failure to disclose fully all relevant facts in the wastewater discharge permit application;
- (3) Falsifying self-monitoring reports;
- (4) Tampering with monitoring equipment;
- (5) Refusing to allow the City timely access to the facility premises and records;
- (6) Failure of the user to meet the effluent limitations contained in the wastewater discharge permit;
- (7) Failure to pay fines after the appeal process has been exhausted;
- (8) Failure to pay sewer charges;
- (9) Failure to meet compliance schedules;
- (10) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (11) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the City's Sewer Use Ordinance

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

C. Right of Entry

The permittee shall allow duly authorized representatives of the City bearing proper credentials and identification:

(1) To enter all properties for the purpose of inspection, observation, measurement, sampling, and testing to determine compliance with the provisions of this Permit at any time;

(2) To examine and copy any and all records required to be maintained by Permittee for the purpose of determining compliance with Pretreatment Standards and Regulations, this Permit and/or applicable Ordinances.

D. Re-Opener Clause

This permit will be reopened and modified to incorporate any new or revised Federal, State, or Local Pretreatment Standards or requirements.

E. Facilities Operation

The Permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the Permittee to achieve compliance with the terms and conditions of this Permit.

F. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed as a result of industrial processing activities or in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the collection system or the City's Wastewater treatment plant.

The disposal of such materials shall be done in accordance with Section 405 of the Clean Water Act and Subtitles C and D of Resource Conservation and Recovery Act and applicable State Regulations. Copies of all manifests and documents pertaining to the disposal of such materials shall be retained and made available to City personnel upon request.

G. Discharge of Listed or Characteristic Wastes

~~There shall be no discharge into the wastewater treatment system~~ of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, except in accordance with the provisions of Part IV, Section I of this permit.

H. Transfer of Ownership or Control

This Wastewater Discharge Permit issued for industrial usage of the system shall not be reassigned or transferred or sold to a new owner, new user, or different premises without the express written consent of the City. At least thirty (30) days advance written notice must be provided.

I. Property Rights

The issuance of this Permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, state, or local laws or regulations.

J. Severability

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid by a Court of Law, the application of such provision to other circumstances, and the remainder of this Permit, shall not be affected thereby.

K. Reapplication

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.6 of the City's Sewer Use Ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. Having met this requirement, the user's existing permit shall remain in effect until a new permit is issued.

L. Personnel Safety

The Permittee shall provide safe inspection conditions for City personnel and shall provide such personnel with all necessary safety information, including but not limited to appropriate clothing and safety equipment to be worn within the facility, exposure to airborne contaminants, and noise hazard levels.

M. Records Retention

The Permittee shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or in behalf of the user in connection with its discharge.

N. Confidential Information/Availability of Reports

Except for data determined to be confidential under Section 308 of the Clean Water Act, 33 U.S.C. §1318 all submitted data shall be available for public inspection at the City's [REDACTED]

O. Falsifying Information

Knowingly making any false statement on any report or other document required by this Permit or knowingly rendering any monitoring device or method inaccurate, subjects the Permittee to criminal law proceedings as well as civil penalties and injunctive relief.

P. Action on Violations

The issue or reissue of this permit does not constitute a decision by the City not to proceed in an administrative, civil, or criminal action for any violations of law or regulations occurring before the issue or reissue of this Permit, nor a waiver of the City's right to do so.

Q. Penalties for Violations of Permit Conditions

Any Permittee who violates a Permit condition is subject to a fine up to \$25,000 per day per violation per Section 11.2(A) of City Ordinance No. 17-98 or its subsequent amendments.

R. Compliance Monitoring

The City [REDACTED] conduct sampling and analysis of wastewater from this permitted facility and charge for this service in accordance with City Ordinance No. 17-98 or its subsequent amendments.

PART VI - COMPLIANCE SCHEDULE

None at this time.

RE: Hypothetical Questions

Jlovell

Sent: Thursday, May 02, 2013 11:48 AM

To: Deborah Hoag [deborah.hoag@readingpa.org]

Cc: Jeffrey Hill [Jeffrey.Hill@readingpa.org]

For our SNC definition, it comes down to when the report was submitted vs. when it was due. If you have a requirement that they resample within a week and then report within 30 days and they took 2 weeks to resample but still got the report in within the 30 days, it would be a violation for late resampling but would not be a violation for late reporting, so it wouldn't be SNC. If your requirement mirrors ours and says sample and report within 30 days, then as long as they report (with the resample results) within 30 days they are OK - there really is no requirement that the resample within a specific time frame as long as they get the report in (with the results) within the 30 day period.

John Lovell

Pretreatment Coordinator

EPA Region 3

Philadelphia, PA 19103-2029

215-814-5790

215-814-2318 (fax)

From: Deborah Hoag [deborah.hoag@readingpa.org]

Sent: Thursday, May 02, 2013 11:25 AM

To: Jlovell

Cc: Jeffrey Hill

Subject: RE: Hypothetical Questions

If they took and reported the resamples late, is that a failure to resample or a late resample?

Deborah A.S. Hoag, P.E.

Phone: 610-655-6121

Fax: 610-655-0223

Email: Deborah.Hoag@readingpa.org

From: Jlovell [mailto:Lovell.John@epa.gov]

Sent: Thursday, May 02, 2013 11:22 AM

To: Deborah Hoag

Cc: Jeffrey Hill

Subject: RE: Hypothetical Questions

The 24-hour notification on the violation we don't consider for purposes of the reporting SNC, although the failure to provide the notification would be a violation and if you wanted to you could consider it SNC under the catch-all provision.

For the resampling report, we do consider that for purposes of SNC since it includes monitoring data (or is supposed to). Since they were required to collect 2 samples based on the violation, I would consider it 2 violations for failure to sample. However, I'd probably consider it a single SNC for a late report because it seems like the 2 samples would normally be submitted in one report. It may depend to some extent on exactly how the requirement is worded, but if it essentially says that they are required to resample twice and report within 30 days it's probably only requiring a single report.

Hope that helps. Let me know if you'd like to discuss more.

John Lovell

Pretreatment Coordinator

EPA Region 3

Philadelphia, PA 19103-2029

215-814-5790

215-814-2318 (fax)

From: Deborah Hoag [deborah.hoag@readingpa.org]

Sent: Thursday, May 02, 2013 10:58 AM

To: Jlovell

Cc: Jeffrey Hill

Subject: Hypothetical Questions

John,

Jeff and I are discussing a few issues with industrial users and have some questions. A user has a violation on a self-monitoring event. That is a violation and receives a Notice of Violation with the accompanying administrative fine. They did not report to the City within 24 hours of their discovery that they had a violation. We became aware when they submitted their self-monitoring report. Is that a failure to report or late report? Their permit requires that they perform two resamples and report the results to the City within 30 days of becoming aware of the initial violation. The initial violation was the end of February and the self-monitoring report did not include any additional results. Is that a late sample or failure to sample? Is it one or two events? We are assuming two separate events since two resamples are required. If they do the resampling in May, then what is it?

If only we had this discussion prior to seeing you yesterday. It provides a good (or bad) example for an enforcement discussion. Thanks.

Deb

Deborah A.S. Hoag, P.E.

City of Reading
503 North Sixth Street
Reading, PA 19601
Phone: 610-655-6121
Fax: 610-655-0223
Email: Deborah.Hoag@readingpa.org



RE: FW:
Jackie Hendricks to: John Lovell

07/30/2012 12:08 PM

Thanks for your help John

Jackie

From: John Lovell [mailto:Lovell.John@epamail.epa.gov]
Sent: Monday, July 30, 2012 11:43 AM
To: Jackie Hendricks
Subject: RE: FW:

It does seem like it should be pretty easy for them to take care of. For some reason I was thinking that they were in violation for all of 2011, but you're right it's only 7 months. That's still a long time and I would still recommend that you consider it SNC.

John Lovell
Pretreatment Coordinator
EPA Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
215-814-5790
215-814-2318 (fax)

Jackie Hendricks ---07/30/2012 11:16:38 AM---On July 31, 2012 they would be in violation for 7 months since the Spill Plan was due December 31, 2

From: Jackie Hendricks <jackie.hendricks@readingpa.org>
To: John Lovell/R3/USEPA/US@EPA
Date: 07/30/2012 11:16 AM
Subject: RE: FW:

On July 31, 2012 they would be in violation for 7 months since the Spill Plan was due December 31, 2011. However, I doubt that would change your opinion. I wanted to check with you so I am sure I am not being too hard on them. But with these Spill Plan revisions, I tell them exactly what they have to revise. I don't think I could make it any easier. I will send you a copy of what was e-mailed him on 10/6/12.

From: John Lovell [mailto:Lovell.John@epamail.epa.gov]
Sent: Monday, July 30, 2012 11:03 AM

To: Jackie Hendricks

Subject: Re: FW:

I think you're right, it doesn't fit into any of the automatic SNC categories. However, at this point it looks like they have been in violation for about 19 months now, so I think you could certainly (and my recommendation would be that you do) put them in SNC based on the last catch-all provision for any other violations that could adversely impact the operation of the program. If users simply ignore requirements, even after they have been reminded, and other users see them doing that it could encourage other users to ignore requirements as well, and that would result in a major impact on the program. So at this point, if it were me, I'd count them as SNC based on that "any other violation" provision.

Let me know if you'd like to discuss.

John Lovell
Pretreatment Coordinator
EPA Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
215-814-5790
215-814-2318 (fax)

Jackie Hendricks ---07/30/2012 10:31:57 AM---John, What is the EPA ruling on this infraction?

From: Jackie Hendricks <jackie.hendricks@readingpa.org>
To: John Lovell/R3/USEPA/US@EPA
Date: 07/30/2012 10:31 AM
Subject: FW:

John,

What is the EPA ruling on this infraction?

Is it significant non-compliance? It does not seem to meet any of the criteria but wanted to make sure.

The company has a Spill Plan but needs revisions and additions to bring it up to date. Spill Plans are reviewed before new permits are issued and when revisions and/or additions are required, this is included in the permit with a due date under Other Permit Conditions. The requirement is included in the cover letter so that the industry is aware of the requirement. I normally do not have a problem with industries submitting the revised Spill Plan by the due date. I do give them a reminder notice when the due date is approaching so they do not miss the deadline.

This is my first case of not getting results.

From: Jackie Hendricks [<mailto:jackie.hendricks@readingpa.org>]

Sent: Monday, July 30, 2012 10:20 AM

To: Deborah Hoag

Subject:

Need a penalty amount for an industry that has a permit requirement to submit a Spill Plan by December 31, 2011.

I reminded them a number of times.

- Sent them the required revisions on 10/6/11 by e-mail
- Sent them a reminder e-mail on 12/12/11 that the plan was due by 12/31/11
- Called them on 3/20/12 to tell them I still did not have the plan and they said they would submit it
- Visited them on 7/19/12 to pick up the Spill Plan and was told they would work on it right away and send it in

The plan is over 6 months late so I will have to issue a NOV. What do you suggest for a penalty amount.[attachment "Spill Plan Revision for Termaco.doc" deleted by John Lovell/R3/USEPA/US]

General Information

- Change contact name. Donald Barthel listed

Material Inventory

- Add location of the chemical storage. This could also be done by marking the locations on the drawing. Include the storage of oils in drums at the back of the plant (north side) near the 2 overhead doors
- List the name of the metal cleaner and grease remover

Spill and Leak Prevention

- Haz Mat mats, containment pallets are mentioned but not on site. The location of these items, when ordered and received, should be added to the Spill Plan. Alternately, the locations could be marked on the drawing.

Emergency Response Equipment

- The location of the following should be added to the Spill Plan. Alternately, the locations could be marked on the drawing:
 1. fire extinguishers
 2. spill containment equipment
 3. first aid kits
 4. protective clothing, respirators and accessories

(NOTE: Some of these items have not yet been ordered and received.)

Emergency Response Procedure

- Statement 2 says that dikes are present and would be found in a cabinet adjacent to the garage doors.
- Statement 5 says that the names and contact phone numbers are posted on the front door and at the powder coating area

Slug (Spill) Reporting

- Note #2 contains an address. Change this to:

Jackie Hendricks
Pretreatment Program
Public Works Department
815 Washington Street
Reading PA 19601

Certification

- This is to be signed by new authorized representative



Re: Consent Order and Agreement

John Lovell to: deborah.hoag

Cc: jackie.hendricks

05/09/2011 12:03 PM

Here are my thoughts. As I mentioned in my previous e-mail, I'm also sending it to our enforcement guys and asking that they take a look at it as well since they have more experience with these things.

- I'm not really bothered by saying that you allege that the violations occurred and not that they did occur. I think that probably just gets back to the whole "without admission of guilt" thing. I'd say that the schedule and penalties are the more important issue. If you're looking for something more than "alleges", another way of getting the violations into the consent agreement might be to include an attachment with the violations listed and have something that says the City has cited DFA for exceedance of its permit limits as shown in attachment A, or the City has identified the exceedances shown in attachment A (or something similar).

- In terms of the schedule for construction and compliance, I'm concerned about their use of the "is scheduled to" language also. The bottom line is that the consent agreement has to have a schedule that is enforceable. I'm not sure if their issue is with the "warrants and represents" language or if they are just trying to make the language fuzzier. It seems to me that the most straight forward way of doing this would be to simply say "activity A shall be completed by date". So for example, paragraph 6 could say "Construction of the building into which the pretreatment system will be placed will be completed by June 30, 2011."

- I'm not completely sure what the implications of their proposed changes to paragraph 14 are. I see that they are specifying daily maximum limits and 100 mg/l rather than the permit limit (is the permit limit different than 100 mg/l?). I've seen consent agreements that include interim limits where there are penalties imposed for exceedances of a higher "limit" during the course of the consent agreement. I think the purpose is to try to ensure that they do their best, but at the same time recognize that they may not be able to fully comply while the treatment system is being built. To some extent it may depend on the up front penalty amount and what that is intended to cover. If the up front penalty is determined assuming that they will be in violation throughout the life of the agreement, then it might be appropriate to give them a break on the stipulated penalties for "routine" violations. If the up front penalty did not cover ongoing violations and they want a break on the stipulated penalties, then it might be appropriate to increase the up front penalty.

- I'm also concerned about the fine schedule language. It seems to me that all their proposed language does is limit your ability to collect penalties (your ordinance says that you "may" collect higher penalties). I think the language should make payment of the stipulated penalties automatic. If they have a violation of the agreement, they pay a certain amount. Basically, you're limiting the amount that you will collect in exchange for them paying automatically and not appealing the fines.

- As far as the force majeure, I think it's not that unusual to have something that addresses violations caused by things beyond the control of the company. I'm not that familiar with what typical language would look like, but one thing I might suggest is that the notification occur when the company becomes aware of an incident that might cause a delay rather than wait until they know that it will cause a delay.

- One other thing that struck me is that the language that they added at the end of paragraph 13 seems very broad. What happens if you find out later on that they have data they didn't give you, or were falsifying some of the data, or tampering with the sampling equipment or some equally significant issue that you had not addressed. If you are going to leave language like that in there, my tendency would be to have it say that they had paid their penalties (assuming that they have) for all cited violations, or to tie it to a list of violations that you attach to the agreement.

- I'm also a little concerned about the termination of the agreement. What happens if they decide that they prefer living under the terms of the agreement rather than under the "normal" enforcement program.

Could they purposely fail to comply with their limits in order to take advantage of limited penalties? It may be appropriate for the penalties to increase significantly after the final compliance date (adjusted by any force majeure change).

John Lovell
Pretreatment Coordinator
EPA Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
215-814-5790
215-814-2318 (fax - NEW)

John,

05/06/2011 02:59:56 PM

From: <deborah.hoag@readingpa.org>
To: John Lovell/R3/USEPA/US@EPA
Cc: <jackie.hendricks@readingpa.org>
Date: 05/06/2011 02:59 PM
Subject: Consent Order and Agreement

John,

Previously, we had discussed two food industries that were going through the formal planning process in the host municipality prior to the installation of industrial pretreatment systems. Since one had previously had a Consent Order and Agreement (COA) with the City and continues to be in SNC for the same issues, we were not inclined to offer any benefits normally afforded an industry with compliance issues being addressed.

However, with the other industry who is not in SNC we discussed the COA concept and they wanted to wait until they were at a point where they felt they had more control over the timing. Now that they have the municipal zoning and planning issues addressed and have all the municipal approvals in place, we issued a COA based on the schedule they had provided which we felt was reasonable. We have now received from them a redlined or track changes version that seems to have completely lost the intent of achieving compliance with an enforceable compliance schedule. We are not inclined to agree to the bulk of the changes as we don't think it would still meet your intent. I have attached the original we sent and what we received for your cursory review. Below are the key comments from Jackie's email following her side-by-side review of the documents.

I just finished my notes on the DFA revision to the COA. These are just my major concerns in the revisions.

- Use of the term alleges in various statements
- Use of "is scheduled" which replaces "will be completed" on points 6 through 10
- Multiple changes to the intent of the fine schedule in point 14
- Use of "may" in the imposition of penalties in point 14 and 15
- The force majeure which is actually covered in point 22

As we discussed, this no longer is a Consent Order with an enforceable compliance schedule. These

points cannot be changed.

Please let me know if you have difficulty opening what they sent to us. We would like your opinion on the original and changes as proposed. Thanks.

Deb

Deborah A. S. Hoag, P.E.
Utilities Division Manager
City of Reading
815 Washington Street
Reading, PA 19601-3690
Phone: 610-655-6258
Fax: 610-655-6034

EMail: Deborah.Hoag@readingpa.org

[attachment "COA CoR-Dairy Farmers of America.DOC" deleted by John Lovell/R3/USEPA/US]

[attachment "Consent Agreement between City of Reading DFA (Legal redline)(ALW-2)

2011-04-22.docx" deleted by John Lovell/R3/USEPA/US]